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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN CHIEN-YOUNG AND RAY WANG

Appeal 2007-3451
Application 09/773,103
Technology Center 2600

Decided: March 5, 2008

Before JOSEPH F. RUGGIERO, MAHSHID D. SAADAT,
and ROBERT E. NAPPI, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 6 of the final rejection of claims 1 through 26, 28, 30, and 32 through 37.

We reverse the Examiner's rejections of these claims.

INVENTION

The invention is directed to an integrated home gateway for initializing broadband communications service. The gateway helps hide the data and broadband service configuration and provisioning complexity from

home users by automatically establishing the provisioning. See pages 6 and 7 of Appellants' Specification. Claim 1 is representative of the invention and reproduced below:

1. An integrated phone-based home gateway system providing in-home and to-home networking, comprising in combination:
 - a home gateway interface for initializing broadband communications service configurations and provisions, initializing data communications parameters and for providing routing or bridging for networking communications;
 - a communications interface for connecting to one or more networks, for providing data communications, for providing broad-band communications and for providing narrowband communications including voice communications;
 - a processor for processing information from the one or more networks;
 - a display interface for displaying the information from the one or more networks; and
 - a wireless communications interface for connecting to external wireless devices.

REFERENCES

Yamamoto	US 5,572,575	Nov. 5, 1996
Jarett	US 5,911,120	Jun. 8, 1999
Gerszberg	US 6,396,531 B1	May 28, 2002
Edson	US 6,526,581 B1	Feb. 25, 2003
Treyz	US 6,678,215 B1	Jan. 13, 2004

REJECTIONS AT ISSUE

Claims 1, 2, 3, 5, 8 through 13, 21, 22, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Edson in view of Jarett. The Examiner's rejection is on pages 4 through 9 of the Answer.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Edson in view of Jarett and Yamamoto. The Examiner's rejection is on pages 9 and 10 of the Answer.

Claims 14 through 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Edson in view of Jarett and Gerszberg. The Examiner's rejection is on pages 10 through 13 of the Answer.

Claims 23 through 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Edson in view of Jarett and Treyz. The Examiner's rejection is on pages 13 through 16 of the Answer.

Claims 6, 7, and 32 through 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Edson. The Examiner's rejection is on pages 16 through 20 of the Answer.

Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Edson in view of Jarett, Gerszberg, and Treyz. The Examiner's rejection is on pages 21 through 26 of the Answer.

Throughout the opinion, we make reference to the Brief (received October 4, 2005), Reply Brief (received February 28, 2006), and the Answer (mailed December 29, 2006) for the respective details thereof.

ISSUES

Appellants contend, on pages 5 through 23 of the Brief that the Examiner's rejection of the independent claims under 35 U.S.C. § 103(a) is in error. Appellants argue that Edson does not teach the claimed feature of providing. Reply Brief 7. Appellants assert that a clear definition of the term provisioning is set forth on page 3 of Appellants' Specification, and

that the passages of Edson cited by the Examiner do not teach provisioning.

Reply Brief 7.¹

Thus, the contentions of Appellants present us with the issue of whether Edson teaches a home gateway for initializing broadband communications configurations and provisions as claimed in the independent claims.

FINDINGS OF FACT

1. Appellants' Specification identifies that it is known in the art, that service provisioning includes allocating, configuring and maintaining multiple transmission channels and virtual communications paths used for broadband communications. Further, Appellants' Specification identifies that this step is complex and performed by professionals. Specification 3.
2. Edson teaches a gateway which is connected to a network of in home devices. Abstract.
3. The gateway executes software to perform routing control of data in the network. Edson col. 3, ll. 49-53, col. 9, ll. 8-31.
4. The CPU of the gateway detects new devices added to the network and configures both the gateway and the new device. Edson, col. 11. ll. 3-19.
5. The configurations of the network may be set by a user via a browser on an attached computer, or may be automatically be performed by the gateway. Edson, col. 11, ll. 30-40.

¹ We note that Appellants have presented numerous arguments in the Brief and Reply Brief, however as this issue is dispositive of the case we address only this issue.

ANALYSIS

We consider the Examiner's rejections of claims 1, 28, 30, and 32 under 35 U.S.C. § 103(a) to be in error. Independent claim 1 recites, "a home gateway interface for initializing broadband communications service configurations and provisions, initializing data communications parameters and for providing routing or bridging for networking communications." Independent claims 28, 30, and 32 recite similar limitations. Independent claim 32 recites "initializing broadband communications service configurations and provisions from the integrated phone-based home gateway system." Thus, the independent claims all recite that a gateway initializes and provides provisions for broadband communications.

Appellants' Specification defines provisioning by stating: "As is known in the art, service provisioning includes allocating, configuring and maintaining multiple transmission channels and virtual communications paths used for broadband communications." Thus, we consider the scope of the independent claims to include that the gateway initializes the communications services and establishes the allocation, configuration of the transmission channels and virtual communication paths, and maintains the channels and paths.

The Examiner finds that Edson teaches this limitation and states on pages 27 and 28 of the Answer:

As described above, the broadband communications are DSL (Digital Subscriber Line/loop) and CATV (Community Antenna Television) communications. Examiner asserts initializing as starting, beginning, or before-processing communications. Service configurations and provisions occur when the communication data traffic (i.e. from/to data traffic receiving at gateway 13 ports 123, 125, 121), or devices

associated with the such communication data traffic (i.e. from/to home devices at home network side, such as telephone 32, TV 42, etc.) are identified/recognized, processed to establish a connection with respect to protocols, ports, service types, etc. and then routed according to their respective/required/provisioned connection (i.e. to/from public network side (i.e. CATV, ADSL ports 117, 119, 115 side)). One cannot route, interchange, or interconnect the communication data traffic between public network and home network without initializing/starting configuration and provision. Another word, one cannot obtain/establish a phone service/communication, DSL service/communication or CATV service from the service provider without initializing/starting the configurations and provision of such services. Therefore, examiner has clearly provided Edson's disclosures as a proof.

Answer 27-28.

The Examiner's statement that one can route broadband communication without initializing and provisioning, is supported by the disclosure of Appellants' specification. Fact 1. Further, Edson does teach that the gateway can automatically detect and configure new network devices (facts 4 and 5). However, we find that Edson is silent on the issue of initializing and provisioning broadband communications. While the evidence shows that provisioning is necessary, (fact 1) we do not find that Edson teaches that the gateway performs these functions. Rather, the only evidence on record directed to provisioning, Appellants' Specification, identifies that in prior art systems provisioning was performed by a person. Further, the Examiner has not found, nor do we find, that any of the other references of record teach that a gateway initializes the communications services and establishes the allocation, configuration of the transmission channels and virtual communication paths, and maintains the channels and paths. Accordingly, we will not sustain the Examiner's rejections of

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independent claims 1, 28, 30, and 32, or the claims 2 through 26 and 31 through 37 dependent thereupon, under 35 U.S.C. § 103(a).

ORDER

For the foregoing reasons, we will not sustain the Examiner's rejections under 35 U.S.C. § 103. The decision of the Examiner is reversed.

REVERSED

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LESAVICH HIGH-TECH LAW GROUP, P.C.
SUITE 325
39 S. LASALLE STREET
CHICAGO, IL 60603